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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,954	03/15/2004	Jean-Louis Massieu	480062.730C1	9957
35243	7590	03/23/2005		
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVENUE, SUITE 6300 SEATTLE, WA 98104-7092				EXAMINER FRANKLIN, JAMARA ALZAIDA
			ART UNIT 2876	PAPER NUMBER

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/800,954	MASSIEU ET AL. <i>(A)</i>
	<b>Examiner</b>	<b>Art Unit</b>
	Jamara A. Franklin	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,10,11,16 and 18-23 is/are rejected.  
 7) Claim(s) 4-9, 12-15, and 17 is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Priority*

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 10, 11, 16, and 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Zheng et al. (US 5,418,862) (hereinafter referred to as ‘Zheng’).

Zheng teaches an optoelectronic device and method for acquiring machine-readable symbols comprising:

a sensor array comprising a plurality of light sensing elements, the light sensing elements producing a signal representative of a quantity of light incident on the respective light sensing element (see figure 2 and col. 3, line 55-col. 4, line 11);

a scanning control circuit coupled to selectively sample the respective signals from the light sensing elements of the sensor array and operable to change a resolution of the sensor array between at least a first resolution during at least a first sampling pass and a second resolution during at least a second sampling pass, the second sampling pass following the first sampling pass (see figure 5 and col. 12, lines 2-23);

the device wherein the scanning control circuit is operable to determine an optimized resolution based on a measure value of a contrast of at least one category of symbol elements from an image; and

the device wherein the sensor array is a two-dimensional array of light sensing element arranged in a plurality of rows, the light sensing elements in each of the rows extending in a scanning direction, and the plurality of rows arranged in a direction perpendicular to the scanning direction with respect to one another.

#### *Allowable Subject Matter*

4. Claims 4-9, 12-15, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

the prior art of record fails to teach, or fairly suggest either alone or in combination thereof, the device and method wherein the sensor array is a two-dimensional array of light sensing elements in each of the rows extending in a scanning direction, and the plurality of rows arranged in a direction perpendicular to the scanning direction with respect to one another, the light sensing elements in a first one of the rows having a first height measured in the direction perpendicular to the scanning direction, and the light sensing elements in a second one of the rows having a second height measured in the direction perpendicular to the scanning direction, the second height different from the first height;

the device wherein the scanning control circuit during the first pass selectively samples signals from the light sensing elements in a first pair of rows having a first cumulative height in a direction perpendicular to a scanning direction, and during the second pass selectively samples signals from the light sensing signals from the light sensing elements in a second pair of rows having a second cumulative height; and

the device wherein the sensor array is a two-dimensional array of light sensing elements arranged in a plurality of rows, the light sensing elements in each of the rows extending in a scanning direction, and the plurality of rows arranged in a direction perpendicular to the scanning direction with respect to one another, the light sensing elements in adjacent rows being offset from one another in the scanning direction.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Batterman et al. (US 5,153,418) teach multiple resolution machine readable symbols.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
March 18, 2005



DIANE I. LEE  
PRIMARY EXAMINER